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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
CHAMPAGNE, LUNA				
ART UNIT		PAPER NUMBER		
3627				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/961,375

Applicant(s)

OWA, TSUNAYUKI

Examiner

LUNA CHAMPAGNE

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-37 is/are pending in the application.
- 4a) Of the above claim(s) 9-24 and 27-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 25-26, 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Applicant's submission filed on 12/11/08 has been entered. Claims 1, 3-8, 25, 26, 31-37 are presented for examination. Claim 2 is cancelled. Claims 9-24, 27-30 are withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 6, 7, 8, 25, 26, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Groot (6,421,047 B1), in view of Lombardi (5,889,951), in further view of Ball et al. (6,446,200 B1), and in further view of Kusmaul (WO 96/07151).

Re claims 1, 25, 31, 32, De Groot discloses community service offering apparatus (10) for exchanging information with a plurality of user terminals connected by a network, the apparatus comprising virtual spaces configured to enable interaction between avatars (*see e.g. col. 1, lines 45-46 - users can interact with one another and with the objects in the virtual world*); displaying means for displaying said user-specific virtual space (*see e.g. col. 3, lines 44-46*).

De Groot does not explicitly disclose virtual space information storing means for storing in advance, virtual space information specifying a plurality of types of virtual spaces to be offered for purchase; the types of virtual spaces being determined based

on respective characteristics of the virtual spaces different from an amount of resources of the community service offering apparatus that is utilized by each respective virtual space; virtual space offering means for allowing a user of a plurality of users to select one of said virtual spaces as a user-specific virtual space leased or owned by said first user of the plurality of users.

However, Lombardi discloses virtual space information storing means for storing in advance, virtual space information specifying a plurality of types of virtual spaces to be offered for purchase (*see e.g. col. 26, lines 46-50 - pre-loaded data in the client database*); virtual space offering means for allowing a user of a plurality of users to select one of said virtual spaces as a user-specific virtual space leased or owned by said first user of the plurality of users (*see e.g. col. 21, lines 44-45 – the grid system helps the user identify units of virtual terrain that are available for leasing*) ;

Therefore it would have been obvious, at the time of the invention to a person of ordinary skill in the art to modify De Groot, and include the steps cited above, as taught in Kusmaul, in order to offer a choice of space, facilitate viewing and optimizing virtual sites.

De Groot, in view of Lombardi, do not explicitly disclose the types of virtual spaces being determined based on respective characteristics of the virtual spaces different from an amount of resources of the community service offering apparatus that is utilized by each respective virtual space, the respective characteristics including functionality of the virtual space; a charge controlling means for charging said first user of the plurality of users a fee to own or lease said user-specific virtual space wherein

said fee is based on the specified type of said user-specific virtual space of said user-specific virtual space which is determined based on respective characteristics of the virtual space which includes the functionality of the virtual space

However, Ball et al. disclose the types of virtual spaces being determined based on respective characteristics (*e.g. e-mail*) of the virtual spaces different from an amount of resources of the community service offering apparatus that is utilized by each respective virtual space, the respective characteristics including functionality of the virtual space; a charge controlling means for charging said first user of the plurality of users a fee to own or lease said user-specific virtual space wherein said fee is based on the specified type of said user-specific virtual space of said user-specific virtual space which is determined based on respective characteristics of the virtual space which includes the functionality of the virtual space (*See e.g. col. 5, lines 63-67; col. 6, lines 1-5*).

Therefore it would have been obvious, at the time of the invention to a person of ordinary skill in the art to modify De Groot, in view Lombardi, and include a charge controlling means for charging said first user of the plurality of users a fee to own or lease said user-specific virtual space wherein said fee is based on the specified type of said user-specific virtual space of said user-specific virtual space which is determined based on respective characteristics of the virtual space which includes the functionality of the virtual space, as taught in Ball et al., in order to provide more flexible options to the users and therefore attract more users.

De Groot, in view of Lombardi, in further view of Ball et al., do not explicitly disclose only said first user of the plurality of users is charged to own or lease said user-specific virtual space and the remaining plurality of users may access the virtual space without charge.

However, Kusmaul discloses only said first user of the plurality of users is charged to own or lease said user-specific virtual space and the remaining plurality of users may access the virtual space without charge (*see e.g. col. 6, lines 24-25 – the end users are not charged fees to enter or to remain in the village*).

Therefore it would have been obvious, at the time of the invention to a person of ordinary skill in the art to modify De Groot, in view of Lombardi, in further view of Ball et al. and include the steps of charging said first user of the plurality of users a fee to own or lease said user-specific virtual space, as taught in Kusmaul, in order to encourage guest users and promote commercial activities.

Re claim 6: Lombardi discloses security modules controlling access to unauthorized area hence is an access managing means for managing access to said user-specific virtual space (see e.g. col. 5, lines 62-63).

It would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify De Groot, in view of Kusmaul, to include an access managing means, as taught by Lombardi, in order to control network traffic and be compensated for use of the virtual space.

Re claims 7 and 8, De Groot, discloses a space slave module, which creates objects in the space answering managing objects, which inherently must be displayed. Since the slave module can only be operated by a person who owns the server, this answers the limitation of only privileged users managing the objects (*see, e.g. col. 3, lines 36-41*).

Re claims 5 and 26, De Groot, in view of Lombardi, in further view of Ball et al. do not explicitly disclose a community service offering apparatus wherein said virtual space information specifies a maximum number of non-avatar objects that can be allocated to said user-specific virtual space, and said charge controlling means charges said first user a fee based on the specified maximum number of non-avatar objects that can be allocated to said user-specific virtual space.

However, Kusmaul discloses a community service offering apparatus wherein said virtual space information specifies a maximum number of non-avatar objects that can be allocated to said user-specific virtual space, and said charge controlling means charges said first user a fee based on the specified maximum number of non-avatar objects that can be allocated to said user-specific virtual space (*see e.g. page 9, lines 5-13 - The music store owner, for example, rents a store that includes a show room, containing listings for up to a predetermined maximum number of items*).

It would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify De Groot, in view of Lombardi, to include the steps wherein said virtual space information specifies a maximum number of non-avatar objects that can be

allocated to said user-specific virtual space, and said charge controlling means charges said first user a fee based on the specified maximum number of non-avatar objects that can be allocated to said user-specific virtual space, as taught by Kusmaul, in order to accommodate users based on their needs and budget.

3. Claims 3-4, 35, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Groot (6,421,047 B1), in view of Lombardi (5,889,951), in further view of Ball et al. (6,446,200 B1), in further view of Kusmaul (WO 96/07151), and in further view of Leahy et al. (6,219,045 B1).

The combination of De Groot, Lombardi, Ball et al., and Kusmaul, lacks the specific details of the claims. However, Leahy et al. disclose the features as follow:

Re claims 3, 4, 35 and 37, Leahy et al. disclose that each room has a given maximum number of avatars (*see e.g., col. 13, lines 21-26*).

Since each room has a given maximum number of avatars (objects), the limitations on the virtual space fee based on number of users, objects, types of objects, amount of data constituting a real storage area, specified type of said user-specific virtual space, and the amount of virtual space owned or leased by said purchasing/first user in the virtual world are deemed an obvious variant of Leahy et al. which monitor popularity in conjunction with billing to bill higher at the most popular spaces.

4. Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Groot (6,421,047 B1), in view of Lombardi (5,889,951), in further view of Ball et al. (6,446,200 B1), in further view of Kusmaul (WO 96/07151), and in further view of Boyd (60/185,902 – provisional 2005/0004983).

Re claims 33 and 36, The combination of De Groot, Lombardi, Ball et al., and Kusmaul, do not specifically disclose a community service offering apparatus wherein the fee to own or lease said user-specific virtual space in the virtual world is a monthly fee.

However, Boyd discloses a community service offering apparatus wherein the fee to own or lease said user-specific virtual space in the virtual world is a monthly fee (*see e.g. page 36, lines 1-3*).

Therefore, it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify the combination of De Groot, Lombardi, Ball et al., and Kusmaul, to include the step wherein the fee to own or lease said user-specific virtual space in the virtual world is a monthly fee, as taught by Boyd, in order to establish a predetermined billing cycle.

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Groot (6,421,047 B1), in view of Lombardi (5,889,951), in further view of Ball et al. (6,446,200 B1), in further view of Kusmaul (WO 96/07151), and in further view of Boyd (60/185,902 – provisional 2005/0004983), and in further view of Leahy et al. (6,219,045 B1).

The combination of De Groot, Lombardi, Ball et al. and Kusmaul lacks the specific details of the claims. However, Leahy et al. disclose the features as follow:

Re claim 4, Leahy et al. disclose that each room has a given maximum number of avatars (*see e.g., col. 13, lines 21-26*).

Since each room has a given maximum number of avatars (objects), the limitations on the virtual space fee based on number of users, objects, types of objects, amount of data constituting a real storage area, specified type of said user-specific virtual space, and the amount of virtual space owned or leased by said purchasing/first user in the virtual world are deemed an obvious variant of Leahy et al. which monitor popularity in conjunction with billing to bill higher at the most popular spaces.

Reply to Arguments:

6. Applicant's arguments filed 12/11/08 have been fully considered but they are not persuasive.
7. Applicant's arguments with respect to the fee being based on functionality of the virtual space is disclosed in Ball et al. where users get billed based the application being used (such as no fee for e-mail while there is a charge for other types of applications). As taught by the prior arts, virtual spaces are charged based on many different criteria including functionality. De Groot, in view of Lombardi, teaches the leasing of a virtual space environment. Ball et al. teach service providers using several charging means, including bandwidth usage, time, and application usage which is read as "the type of application used" / functionality. As stated before, the difference between the charges

for e-mails as opposed to other types of applications is understood to be based on functionality. It is believed to be obvious that one can combine the teachings of De Groot, Lombardi and Ball et al., in order to offer a variety of services based on customer's needs.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luna Champagne whose telephone number is (571) 272-7177. The examiner can normally be reached on Monday - Friday 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Luna Champagne/
Examiner
Art Unit 3627

January 15, 2009

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627